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February 20, 2007

Christina M. Wise
Property Tax Director
Stark County Auditor
110 Central Plaza South
Suite 220
Canton, OH 44702-1410

**Re: Agricultural District
Our File No. M101.00316**

Dear Christina:

You have asked our office whether disqualification in the C.A.U.V. program automatically disqualifies a person from the agricultural district. You said the State of Ohio Department of Taxation advised that, in their opinion, ineligibility for the C.A.U.V. program does not necessarily mean that you are withdrawn from the agricultural district. I agree with the Department of Taxation for the following reasons.

When referring to ways that land owners may be disqualified from the C.A.U.V. program, R.C. 5713.30 speaks in terms of "conversion". When referring to ways that land owners may be disqualified from the agricultural district, R.C. 929.01 talks about "withdrawal". The terms are defined differently. Withdrawal includes, among other things, "the explicit removal of land from an agricultural district." A person could do this without changing the land use or affecting their eligibility to participate in the C.A.U.V. program.

Conversely, one can be disqualified from the C.A.U.V. program merely for failing to file a renewal application each year. However, failure to file a renewal application for the C.A.U.V. program in no way appears to affect the status of land in the agricultural district.

Additionally, R.C. 929.02(D), specifically states that if a land owner withdraws the land from the agricultural district that he or she shall notify the county auditor and pay a withdrawal penalty of either:

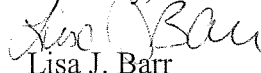
(1) *If the owner's action also disqualifies the owner's land for any tax savings that it had been receiving under sections 5713.30 to 5713.38 of the Revised Code, the owner shall pay a percentage of the amount charged under Section 5713.34 of the Revised Code that is equal to the average bank prime rate at the time the amount charged under that section is required to be paid.....*

(2) *If the land had not been receiving any tax savings under those sections, or if the owner's action does not disqualify the land for tax savings under them, the owner shall pay a percentage of the amount that would have been charged under section 5713.34 of the Revised Code if the owner's land had been receiving tax savings and became disqualified for them in an amount that is equal to the average bank prime rate at the time the amount that would have been charged under that section would have been required to be paid.*

These sections clearly envision situations where a land owner is in the agricultural use program and not the C.A.U.V. program as well as where being removed from the agricultural use program does not disqualify a land owner from participation in the C.A.U.V. program.

It appears from the plain language of the statute that the procedural requirements for qualifying for the agricultural district are separate and distinct from those for the C.A.U.V. program, and that one does not affect the other. Should you need further information, please do not hesitate to call me at (330) 451-7861.

Sincerely,



Lisa J. Barr

Assistant Prosecuting Attorney
Civil Division